



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003918

[REDACTED]

Dear [REDACTED],

On September 23, 2015, you and [REDACTED] acting on your behalf as your authorized representative, appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 13, 2015 enrollment notice regarding your newborn child's start date of coverage.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

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NY State of Health Number: [REDACTED]
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[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine on March 13, 2015 that your newborn child's enrollment in a qualified health plan was effective April 1, 2015?

Procedural History

On November 28, 2014, the Marketplace issued a notice of eligibility redetermination that you are eligible to purchase a qualified health plan at full cost through New York State of Health, effective December 1, 2014.

Also on November 28, 2014, based on your non-financial application dated November 17, 2014, the Marketplace issued a notice of eligibility redetermination that you are eligible to purchase a qualified health plan at full cost through New York State of Health, effective January 1, 2015.

On December 11, 2014, the Marketplace issued a notice confirming your selection of and enrollment in a gold-level qualified health plan, Total Independence Gold NS INN Dep25 Acupuncture Massage Therapy Naturopathy, at full cost. The notice also stated that your health insurance can start as soon as you pay your first month's premium and can start as early as January 1, 2015.

On December 17, 2014, the Marketplace uploaded a copy of the first November 28, 2015 notice that stated your eligibility was effective December 1, 2014, as returned mail because it was undeliverable to the address listed on your Marketplace account.

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On March 3, 2015, the Marketplace issued a notice of eligibility redetermination that stated you were no longer eligible to enroll in a qualified health plan through NY State of Health because you are not a resident of New York.

That same day, the Marketplace issued a disenrollment notice that your coverage with the gold-level QHP you had enrolled in will end effective March 31, 2015.

On March 7, 2015, the Marketplace issued another notice of eligibility redetermination that stated you were no longer eligible to enroll in a qualified health plan through NY State of Health because you are not a resident of New York and that your eligibility will end effective March 31, 2015.

On March 13, 2015, the Marketplace issued a notice of eligibility redetermination that you are eligible to purchase a qualified health plan at full cost through NY State of Health, effective April 1, 2015, and that your newborn child is eligible to purchase a qualified health plan at full cost through NY State of Health, effective January 1, 2015. The notice also stated that you both qualify to select a health plan outside of the open enrollment period for 2015 and need to review your health plan options and confirm your selection no later than May 30, 2015.

That same day, the Marketplace issued a notice confirming your selection of a gold-level qualified health plan for you and your infant child with a monthly premium responsibility of \$762.23. The notice further stated that coverage in that health plan for you and your infant child would begin after you paid your first month's premium and could start as early as April 1, 2015.

On May 7, 2015, your authorized representative filed a complaint requesting that your newborn child's coverage be added to your qualified health plan effective as of his date of birth of [REDACTED], which request was denied because it was made after sixty (60) days from the date of the child's birth.

On July 16, 2015, your authorized representative spoke with the Marketplace's Account Review Unit and appealed the enrollment start date of April 1, 2015 for your infant child in that you believe it should have been made effective as of his date of birth in [REDACTED].

On September 23, 2015, you and your authorized representative had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) Your Marketplace application states that you are single and have one child.

- 2) You credibly testified that your mailing address has remained the same as reported on your marketplace initial application and you do not know why mail would have been returned to the Marketplace as undeliverable.
- 3) According to your Marketplace application, your child was born on [REDACTED], and his Social security number was provided on March 12, 2015.
- 4) Your authorized representative testified and your Marketplace account reflects, that he contacted the Marketplace on March 2, 2015 to report the birth of your infant child.
- 5) Your Marketplace account reflects that on March 12, 2015, your newborn child was added as a household member to your account and his enrollment was also added, as is reflected in the March 13, 2015 notices.
- 6) Your authorized representative testified that you and he had multiple telephone conversations with Marketplace representatives thereafter and were told a request was made to file your newborn child's paperwork since it had somehow been overlooked and not filed.
- 7) Your authorized representative testified that nothing appeared to be done about your newborn child's coverage start date so he contacted the Marketplace again on May 7, 2015. He testified he was told it was too late to enroll your infant child because more than sixty (60) days had elapsed since his birth, even though it was acknowledge that he had originally called in a timely manner. He further testified that the Marketplace also said the case and your infant child's paperwork would be sent to the Account Review Unit to have him added to your account but then his paperwork somehow vanished.
- 8) Your authorized representative and you testified that you notified your health plan within four weeks of your child's birth that you wanted him added to your health plan then in effect and were told you needed to notify the Marketplace.
- 9) Your authorized representative testified that your newborn child's hospitalization at birth was not covered by your health insurance either, and that you had a caesarean section and were hospitalized with your newborn for five days.
- 10) Your authorized representative testified that, even though your infant child's health insurance plan enrollment was made effective as of April 1, 2015, you want his coverage backdated to [REDACTED] so that his pediatric care during February and March 2015 is covered.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Enrollment Periods – Generally

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)).

After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another plan. One circumstance under which a special enrollment can be authorized is when the qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care ((45 CFR § 155.420(d)(2)).

Newborn Child – Effective Date of Coverage

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

In addition, there are special effective dates in the case of birth, adoption, placement for adoption, or placement in foster care of a child for Marketplace Exchanges. The Marketplace must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, or it may permit the qualified individual or enrollee to elect a coverage effective date of the first of the month following the date of birth, adoption, placement for adoption, or placement in foster care (45 CFR §155.420(b)(2)). The Marketplace has elected to make the effective date the first day of the month of birth.

If the Exchange permits the qualified individual or enrollee to elect a coverage effective date of either the first of the month following the date of birth, adoption, placement for adoption or placement in foster care, the Exchange must ensure coverage is effective on the date duly selected by the qualified individual or enrollee (45 CFR §155.420(b)(2)).

Legal Analysis

At issue is whether or not the Marketplace properly made April 1, 2015, the effective start date of your infant child's health insurance coverage, instead of January 1, 2015.

The record indicates that your newborn's birth date is [REDACTED], during the 2015 annual open enrollment period and his birth was reported to the Marketplace on

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March 2, 2015 and again on March 12, 2015, when he was added as a household member to your Marketplace account.

After your Marketplace account was updated on March 12, 2015, however, the Marketplace issued a notice of eligibility redetermination that your child was eligible to purchase a qualified health plan at full cost effective January 1, 2015, but the corresponding enrollment notice of that date did not make his enrollment effective until April 1, 2015. This enrollment start date resulted in your newborn not having health insurance coverage since his date of birth until April 1, 2015.

Newborns are granted special enrollment periods within which to enroll and, under the law, have sixty days from the qualifying life event that triggers enrollment to do so. According to your Marketplace application and your authorized representative's testimony, your newborn child's birth date was [REDACTED]. Sixty days from his date of birth is [REDACTED]. Since your newborn child's enrollment in a health plan occurred on March 12, 2015, it was within sixty (60) days of his birth on January 27, 2015.

This is so even though you testified that you notified your health plan within four weeks of your newborn's birth that you wanted him added to your health plan as of his date of birth. The record clearly reflects that you followed the necessary steps and promptly reported your newborn child's birth to the Marketplace on March 2, 2015 and March 12, 2015 and added his enrollment as of March 12, 2015.

Having fulfilled your notice obligations, your newborn child's coverage should have been made effective from the date of his birth or the first of that month, which is January 1, 2015, since the Marketplace applies the first of the month of birth as the start date of coverage. We take note in your case that it was of no fault on your part that your infant child's paperwork was not processed timely by the Marketplace or that your authorized representative's last complaint was made on May 7, 2015, after the sixty days had expired, since several complaints within the sixty day period were not resolved. Therefore, the March 12, 2015 enrollment notice containing the earliest start date of April 1, 2015 for your newborn child's enrollment is MODIFIED, in relevant part, to state that his start date is January 1, 2015, with your health plan that was then active.

You will be responsible for any monthly premium due for your infant child's coverage in January, February, and March 2015.

Decision

The March 13, 2015 enrollment determination is MODIFIED, in relevant part, to state that your newborn child (Marketplace ID: [REDACTED]) is enrolled in your then active gold-level qualified health plan, Total Independence Gold NS INN Dep25 Acupuncture Massage Therapy Naturopathy, at full cost effective January 1, 2015.

Therefore, your case is returned to the Marketplace to reinstate your infant child's coverage with an effective date of January 1, 2015.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

This decision does not affect your newborn child's eligibility to enroll in a qualified health plan through New York State of Health.

Your newborn child's enrollment start date is modified from April 1, 2015 to January 1, 2015.

Your newborn child (Marketplace ID: H [REDACTED]) is enrolled in your then active gold-level qualified health plan, Total Independence Gold NS INN Dep25 Acupuncture Massage Therapy Naturopathy, at full cost effective January 1, 2015.

You will be responsible for any monthly premium due for your infant child's coverage with that health plan for January, February, and March 2015.

Your newborn's health plan coverage with that same health plan continues in effect as of April 1, 2015.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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If You Have Questions about this Decision (Customer Service Resources):

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- By fax: 1-855-900-5557

Summary

The March 13, 2015 enrollment determination is MODIFIED, in relevant part, to state that your newborn child (Marketplace ID: [REDACTED]) is enrolled in your then active gold-level qualified health plan, Total Independence Gold NS INN Dep25 Acupuncture Massage Therapy Naturopathy, at full cost effective January 1, 2015.

This decision does not affect your newborn child's eligibility to enroll in a qualified health plan through New York State of Health.

Your newborn child's enrollment start date is modified from April 1, 2015 to January 1, 2015.

Your newborn child (Marketplace ID: [REDACTED]) is enrolled in your then active gold-level qualified health plan, Total Independence Gold NS INN Dep25 Acupuncture Massage Therapy Naturopathy, at full cost effective January 1, 2015.

You will be responsible for any monthly premium due for your infant child's coverage with that health plan for January, February, and March 2015.

Your newborn's health plan coverage with that same health plan continues in effect as of April 1, 2015.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

